IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1281 of 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAKARAJI K THAKORE - Appellant(s)
Versus
LIYAKATHUSAIN A PATHAN (DELETED) & 2 - Defendant(s)

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Appearance :
MR JIGAR RAVAL for Appellant(s) : 1,
None for Respondents : 1 & 2.
MR SUNIL B PARIKH for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 25/07/2007

ORAL JUDGMENT

Shri Jigar Raval, learned counsel for the appellant; none for the respondents no. 1 and 2; Shri Sunil B. Parikh, learned counsel for the

respondent no.3.

2. The claimant, being partly aggrieved by the award dated 24.11.83 passed by the M.A.C.Tribunal [Aux.] Ahmedabad [Rural] at Narol in M.A.C.T. Case No. 678/80, is before this Court seeking enhancement in the compensation amount.

3. As nobody is challenging the liability of the respondent, the Court is not required to look into the details of the accident etc.

4. According to the claimant, his income was Rs.350/- per month and since after the accident, he is earning only Rs.150/-, therefore, there is loss of Rs.200/- per month towards the future income. He accordingly claimed a sum of Rs. 60,000/-. The respondents, however, submitted that the claim was inflated and exaggerated and the claimant was not entitled to the same.

5. The learned Tribunal observed that the claimant had suffered fracture of left shaft humerus bone and was incapacitated to the extent of 15% which was permanent partial disability of the left arm. The Tribunal also found that the

total income per month would be Rs. 300/- and as the disability count would be 8%, in view of the total limit, his future loss per month would be Rs. 24/-. It accordingly rounded of the figures and held that the loss would be Rs. 300/- per year. Applying multiplier of 12, it awarded a sum of Rs. 3600/-.

6. Shri Raval, learned counsel for the appellant, after taking me through the findings and the material available on the records submitted that in view of the uncontroverted statement of the witnesses of the appellant, present income could not be held to be less than Rs. 350/- and if the future prospects are to be taken into consideration, the income could not be held to be less than Rs.600/- per month. He submits that the loss of Rs. 24/- per month would be too low. He also submitted that in case of a young man, application of multiplier of 12 would be on the lower side.

7. Shri Sunil B. Parikh, learned counsel for the respondent submitted that the award made by the Tribunal is absolutely justified.

8. From the evidence of the appellant and his witnesses, it would appear that his present earning was Rs.350/- per month. If future prospects are taken into consideration, his income can safely be arrived at Rs. 600/- per month. Though the appellant has submitted that he is only getting a sum of Rs.150/- as salary now, but I am not ready to believe that, specially in view of the fact that he is required to milk the cows and deliver milk at the door-steps. I will asses the future loss of Rs.50/- per month or Rs. 600/- per year. Looking to the age of the claimant, I will be applying the multiplier of 15 and I would hold that his future loss would be Rs. 9000/-. In addition to the sum of Rs. 3600/-, the claimant would be entitled to a sum of Rs. 5400/- with interest at the rate of 6% per annum from the date of the claim petition till realization.

9. The appeal to the extent indicated above, is allowed. The respondents are held jointly and severally liable to pay additional sum of Rs. 5400/- with 6% interest per annum from the date

of the application till realization.

[R.S. GARG, J.]

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